

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

1

The Minutes

November 4, 2002

C037390 THE PEOPLE v. VONG (Not for Publication)

BY THE COURT:

It is ordered that the opinion filed in this case on October 9, 2002, be modified as follows: ... This modification does not change the judgment. The petition for rehearing by appellant is denied.

FOR THE COURT:

Sims, Acting P.J.

Davis, J.

Morrison, J.

November 5, 2002

MISC. ORDER 2002-14

By The Court:

Associate Justice Coleman A. Blease is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 75, 76, 77 and 78, during the absence of the Presiding Justice from the court on November 12, 2002, through November 18, 2002, or until his return. (See Cal. Const. Art 6, Sec. 3.) The senior member of a panel of the Court is designated Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

C040301 THE PEOPLE v. WHYARD (Not for Publication)

The judgment is reversed, and the matter is remanded to the trial court to allow defendant to withdraw his guilty plea. If defendant so moves, the trial court must grant his motion. If defendant does not move to withdraw his guilty plea within 90 days of the filing of the remittitur in the trial court, the trial court shall reinstate the judgment.

CALLAHAN, J.

We concur: Scotland, P.J.

Hull, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

2

The Minutes

November 5, 2002, continued

- C040349 THE PEOPLE v. CONSTANCIO (Not for Publication)**
The judgment is reversed and the matter is remanded to the trial court to hold a Marsden hearing and consider defendant's complaints about his trial attorney. The court shall determine whether to appoint substitute counsel (unless defendant wishes to represent himself) to consider a motion for a new trial. If the trial court does not find adequate grounds to grant the motion, the court shall reinstate the judgment.
CALLAHAN, J.
We concur: Scotland, P.J.
Hull, J.
- C040984 THE PEOPLE v. FIELDS (Not for Publication)**
The judgment is affirmed.
KOLKEY, J.
We concur: Davis, Acting P.J.
Hull, J.
- C041366 THE PEOPLE v. CUMMINGS (Not for Publication)**
The judgment is affirmed.
SCOTLAND, P.J.
We concur: Morrison, J.
Callahan, J.
- C039473 QUILICI v. BURKHART (Not for Publication)**
THE COURT:
In his petition for rehearing, appellant asserts "the notice of appeal from the first appeal... came from McDonough, Holland & Allen...."....
Each of appellant's arguments for rehearing is without merit. Accordingly, the petition for rehearing is denied.
THE COURT:
NICHOLSON, J.
MORRISON, J.
HULL, J.
- C039473 QUILICI v. BURKHART**
BY THE COURT:
Appellant's request to publish the opinion filed on October 8, 2002, is denied.
NICHOLSON, Acting P.J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

3

The Minutes

November 5, 2002, continued

C039503 ZOFFKA, etc., et al. v. SCHUMACHER

BY THE COURT:

Pursuant to the written request of the appellants, the appeal filed October 5, 2001, is dismissed. It is further ordered that the remittitur issue forthwith. (See Cal. Rules of Court, rule 19(b).)

SCOTLAND, P.J.

November 6, 2002

C036988 THE PEOPLE v. EDMONTON (Not for Publication)

The judgment is affirmed.

RAYE, Acting P.J.

We concur: Morrison, J.

Hull, J.

C038067 THE PEOPLE v. TRUJILLO (Not for Publication)

The judgment is affirmed.

HULL, J.

We concur: Scotland, P.J.

Blease, J.

C038077 THE PEOPLE v. SEVERANCE

BY THE COURT:

It is ordered that the opinion filed here in on October 30, 2002, be modified as follows... There is a change in judgment.

FOR THE COURT:

SCOTLAND, P.J.

HULL, J.

ROBIE, J.

**C041241 In re J.S. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND
HUMAN SERVICES v. C.M. (Not for Publication)**

The orders are affirmed.

CALLAHAN, J.

We concur: Sims, Acting P.J.

Robie, J.

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

4

The Minutes

November 7, 2002

- C039528 THE PEOPLE v. LIM (Not for Publication)**
This case is remanded to the trial court. The judgment is modified by imposing a \$50 laboratory fee under Health and Safety Code section 11372.5, a \$50 penalty assessment under Penal Code section 1464, and a \$35 penalty assessment under Government Code section 76000. The judgment is modified to reflect that count II and count III are to run concurrently to count IV. The trial court shall determine the amount of presentence custody credit attributable to counts II, III, and IV. The trial court shall prepare an amended abstract of judgment including the amount of presentence credit, and the modification of the laboratory fee and penalty assessments, and shall forward a certified copy of same to the Department of Corrections. As modified, the judgment is affirmed.
SIMS, Acting P.J.
We concur: Morrison, J.
Callahan, J.
- C039656 THE PEOPLE v. JONES (Not for Publication)**
The judgment is affirmed.
RAYE, J.
We concur: Sims, Acting P.J.
Morrison, J.
- C039859 THE PEOPLE v. RICE (Not for Publication)**
The judgment is modified to award 82 days of actual credits and 40 days of conduct credits for a total of 122 days of presentence credits, and with this modification, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment reflecting the modification and to forward a certified copy thereof to the Department of Corrections.
RAYE, J.
We concur: Scotland, P.J.
Robie, J.
- C038544 HINTON v. GRANGE INSURANCE GROUP et al. (Not for Publication)**
The judgment is affirmed. Grange shall recover costs on appeal.
RAYE, Acting P.J.
We concur: Callahan, J.
Robie, J.

6

November 7, 2002, continued

BLEASE, Acting P.J.

Morrison, J.

Callahan, J.

I concur in the majority's conclusion that the arbitration clause in the parties' written agreement must be enforced pursuant to the Federal Arbitration Act (9 U.S.C. § 1 et seq.) (the FAA)

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

7

The Minutes

November 8, 2002, continued

However, I disagree that this court may refuse to enforce the provision specifying Minneapolis as the place of arbitration in the context of a commercial agreement between a Minnesota and a California party...

... It is not that I have no sympathy for Ehlers Elevators, but that a greater principle -- which benefits Ehlers and every other farmer and merchant -- is at stake.

KOLKEY, J.